

App. No. 10/715,322
February 22, 2006 Amendment and
Reply to Office Communication mailed February 14, 2006

Docket No. QNX003

IN THE DRAWINGS:

10 Sheets of drawings are in this application.

Figure 5 was amended in a previous Amendment.

All other sheets of drawings remain Original.

App. No. 10/715,322
February 22, 2006 Amendment and
Reply to Office Communication mailed February 14, 2006

Docket No. QNX003

REMARKS

In the Office Action mailed on August 25, 2005, the Examiner stated that the claims originally submitted apply to three “patentably distinct species of inventions” and required an election of one species.

1. The Applicant attempted to comply with this requirement in its reply and Amendment of October 7, 2005 and elected the Species, as claimed by the Examiner, starting with Claim 12 for examination. However, the Examiner has stated in his Office communication of November 17, 2005 that Applicant's reply was non-responsive because of amendments made to claim 12 in the October 7, 2005 reply.
2. Applicant has again attempted to comply with the Examiner's requirement of election and again over objections as noted below by electing claim 12 as originally submitted and now claim 46 and the claims originally submitted that were directly or indirectly dependent on claim 12. Applicant has made one amendment to claim 12 as originally submitted to correct a typographical error. Specifically, the word “(heat exchange) liquid” was changed to “(heat exchange) unit” to correct this typo and make it consistent with its antecedent basis in the claim.
3. Original claims 13-15 have been re-instated in their original form as claims 47-49 and all depend on claim 46 (original claim 12) directly or indirectly.
4. New claims 50-61 have been added and all are directly or indirectly dependent on claim 46 (original claim 12 with the typographical error amended). Applicant submits that, since all of these new claims are directly or indirectly dependent on claim 46 (original claim 12), they are entitled to be examined as part of the Elected Species and rejoined if claim 46 is allowed after examination.

App. No. 10/715,322
February 22, 2006 Amendment and
Reply to Office Communication mailed February 14, 2006

Docket No. QNX003

5. New claim 62 is an independent method claim consistent with the elected claim 46 (original claim 12).

6. The Applicant has again made the election with objection and hereby incorporates by reference herein, its reasons for objecting specified in the October 17, 2007 Reply and Amendment.

7. Applicant also notes that it does not agree with the Examiner's arguments in the November 17, 2005 communication that its attempted amendments to Claim 12 in its October 7, 2005 Reply and Amendment were non-responsive. Applicant believes its attempted amendment of claim 12 did not make it non-responsive to Election requirement as the Examiner claims. The Examiner cites MPEP §821.03 for support. However, §821.03 which specifically incorporates 37 CFR 1.145 states that "If after an office Action..., the applicant presents claims directed to an invention distinct from and independent of an invention previously claimed," does not preclude amendments of claims, even if the claims are the subject of an election requirement.

8. Applicant's attempted amendment of claim 12 in the October 7, 2005 reply and Amendment did not make it distinct and independent from the original claim 12, especially when compared to original claims 1 and 16 which the Examiner claims were patentably distinct Species. Claim 12, as Applicant attempted to amend, has a hot region and a cold region as did original claim 12. It had a coolant pathway in lieu of a conduit, it was drawn to a cooling system as opposed to liquid cooling system. It added a requirement of an electron conducting material coupled to a power source to create the hot and cold regions. Applicant submits that these attempted amendments do make it "independent and distinct" from the original claim 12. Finally, it did not include a heat exchange unit as cited in original claim 12. Applicant argues that this does not make the attempted, amended claim 12 of the October 17, 2005 Reply and Amendment "distinct or independent" either.

9. The Examiner states "...if Applicant elects a particular invention with specific features and concurrently amends/adds claims, the new claims must include all of the features and be strictly within a scope of an elected claim." Applicant disagrees with the Examiner. The Examiner seems

App. No. 10/715,322
February 22, 2006 Amendment and
Reply to Office Communication mailed February 14, 2006

Docket No. QNX003

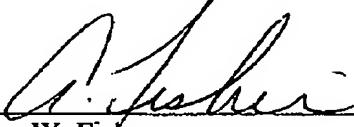
to be saying that elected claims cannot be amended. 37 CFR 1.145 does not preclude amendments of elected claims, it precludes distinct and independent inventions. Applicant submits that its attempted amendment of claim 12 did not create a distinct and independent invention of the original claim.

10. The amendments to the specification and drawings made in previous amendments are editorial and intended to clarify or correct.

Should the Examiner have any further comments or issues, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at art.fisher@patentdominion.net

Respectfully submitted,

Date: 2/22/06



Arthur W. Fisher
Registration No. 27,549
Patent Dominion LP
555 Republic Drive, Suite 200
Plano, Texas 75075
(972) 788-1336/telephone
(972) 788-1335/facsimile